

**JUL 28 2006**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

DIOGENES JAIMES SANCHEZ; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-70271

Agency Nos. A75-767-058  
A75-767-059

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 26, 2006<sup>\*\*</sup>  
Pasadena, California

Before: FERNANDEZ, RYMER, and CLIFTON, Circuit Judges.

Diogenes Jaimes-Sanchez and his wife Ofelia Pena-Garcia, natives and citizens of Mexico, petition for review of the order of the Board of Immigration Appeals (BIA) affirming the immigration judge's (IJ) denial of their application for

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

cancellation of removal. We deny the petition because Jaimes-Sanchez and Pena-Garcia must establish that they are persons of good moral character, 8 U.S.C. § 1229b(b)(1), but cannot do so in light of their \$1000 payment to a smuggler to bring another alien illegally into this country. 8 U.S.C. §§ 1101(f), 1182(a)(6)(E)(i); *Khourassany v. INS*, 208 F.3d 1096 (9th Cir. 2000) (holding that alien who paid smuggler to bring wife and child into the United States illegally is not considered to be of good moral character). While their doing so was undoubtedly for a good purpose from their point of view, no exceptions apply to Jaimes-Sanchez and Pena-Garcia. The IJ did not err by failing to consider discretionary relief under § 1182(d)(11), because neither Jaimes-Janchez nor Pena-Garcia meets the criteria for eligibility.

Given this disposition, we do not reach the other grounds urged for granting the petition because absence of good moral character alone is sufficient to deny the relief sought.

PETITION DENIED.